

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KAREN ISAACSON

Plaintiff,

V.

BEN CARSON,

Defendant.

Civil Action No. 2:20-cv-00588-RAJ

DISMISSAL ORDER

This matter is before the Court *sua sponte*. On April 21, 2020, the Honorable A. Tsuchida, United States Magistrate Judge, granted *pro se* Plaintiff Karen on's application to proceed *in forma pauperis* while recommending review under S.C. § 1915(e)(2)(B). *See* Dkt. # 4. For following reasons, the Court **DISMISSES**iff's complaint as frivolous under § 1915(e)(2)(B)(i).

I. BACKGROUND

Under 28 U.S.C. § 1915, a court is required to dismiss an *in forma pauperis* plaintiff's case if the action "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B); *see also See Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) ("[S]ection 1915(e) applies to all *in forma pauperis* complaints, not just those filed by prisoners."). A complaint is frivolous if it lacks a basis in law or fact. *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005).

ORDER - 1

1 The following is taken Plaintiff's complaint, which is assumed to be true for the
 2 purposes of this motion to dismiss. *Sanders v. Brown*, 504 F.3d 903, 910 (9th Cir. 2007).
 3 In May 2016, Plaintiff visited Guild Mortgage to seek advice about obtaining a home
 4 equity conversion mortgage (or "reverse mortgage") for her manufactured home. Dkt. #
 5 5 at ¶ 25. During the visit, a loan officer allegedly told Plaintiff that "HUD has a rule that
 6 if you move your house you can't get a reverse mortgage." Dkt. # 5 at ¶ 26. Plaintiff
 7 subsequently contacted HUD seeking a reinterpretation or waiver of the rule, but HUD
 8 reiterated the requirement and confirmed there were no exceptions. Dkt. # 25 at ¶¶ 29-30.

9 On April 17, 2020, Plaintiff sued the Department of Housing and Urban
 10 Development ("HUD"), the Secretary of HUD, and the Assistant Secretary of HUD and
 11 the Fair Housing Administration (collectively "Defendants"). Plaintiff's complaint
 12 alleges: (1) Fifth Amendment due process violations, (2) Fifth Amendment equal
 13 protection violations, (3) intentional interference with a prospective business expectancy,
 14 (4) willful misconduct, (5) intentional infliction of extreme emotional distress, (6)
 15 violation of the Fair Housing Act, (7) violation of the Administrative Procedure Act, and
 16 (8) unconstitutional pattern or practice. *See generally* Dkt. # 5. Each of Plaintiff's claims
 17 is based on her allegation that she was denied a reverse mortgage because of HUD's
 18 allegedly unlawful rules and regulations, 24 C.F.R. § 203.43f(d)(iii) and HUD Handbook
 19 4235.1 REV-1 § 3-4(B)(4).

20 This is Plaintiff's fourth action arising from her interactions with Guild Mortgage
 21 and HUD.¹ This Court dismissed Plaintiff's three prior complaints for lack of subject
 22 matter jurisdiction after determining that she lacked Article III standing to sue.² Most

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¹ *See Isaacson v. Sec'y of Hous. & Urban Dev.*, No. 16-cv-1254-JLR; *Isaacson v. Sec'y of*
 24 *Hous. & Urban Dev.*, No. 17-cv-1449-RSL; *Isaacson v. Carson, et. al.*, No. 19-cv-2059-
 25 RSL (dismissed as frivolous).

26 ² *See Isaacson*, No. 16-CV-1254-JLR (Dkt. #26); *Isaacson*, No. 17-CV-1449-RSL (Dkt.
 27 #23), *Isaacson*, No. 19-cv-2059-RSL (Dkt. # 8).

1 recently, in an order dismissing Plaintiff's third complaint, the Honorable Robert S.
2 Lasnik cautioned Plaintiff that "future actions involving these factual and legal
3 allegations, which again fail to establish Article III standing, may be dismissed with
4 prejudice." Dkt. # 8 at 3. Notwithstanding this warning, Plaintiff filed the instant action.
5 For the reasons previously articulated to Plaintiff on several prior occasions, Plaintiff still
6 lacks standing to pursue this action.

7 II. DISCUSSION

8 Under Rule 12(h)(3), "[i]f the court determines at any time that it lacks subject-
9 matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3).
10 Constitutional standing is a "necessary element of federal-court jurisdiction." *Thomas v.*
11 *Mundell*, 572 F.3d 756, 760 (9th Cir. 2009). To establish Article III standing, a plaintiff
12 must show that (1) she suffered an injury in fact, (2) there is a causal connection between
13 the injury and the defendants' conduct, and (3) the injury will likely be redressed by a
14 favorable decision from the Court. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61
15 (1992).

16 An injury in fact is "an invasion of a legally protected interest which is
17 (a) concrete and particularized . . . and (b) actual or imminent, not conjectural or
18 hypothetical." *Lujan*, 504 U.S. at 560 (citations and internal quotation marks omitted).
19 Here, Plaintiff again fails to allege "an invasion of a legally protected interest which
20 is . . . concrete and particularized and . . . actual or imminent, not conjectural or
21 hypothetical." *Id.* at 560 (internal quotation marks and citations omitted). Plaintiff does
22 not allege that she applied for a reverse mortgage with Guild Mortgage (or any other
23 lender), nor does she allege that HUD reviewed her application and declined to insure the
24 loan. Plaintiff's speculation that she will be unable to obtain a reverse mortgage from
25 any lender as a result of HUD's allegedly unlawful rule and regulation, does not create a
26 concrete injury in fact. *Id.* at 560 (internal quotation marks and citations omitted).

1 Plaintiff also fails to show how her alleged injury is “fairly traceable” to
 2 Defendants rather than the independent actions of a third party. *Virginia Sur. Co. v.*
 3 *Northrop Grumman Corp.*, 144 F.3d 1243, 1246 (9th Cir. 1998). “[W]here the causal
 4 chain involves [a] third part[y] whose independent decisions collectively have a
 5 significant effect on plaintiffs’ injuries . . . the causal chain is too weak to support
 6 standing.” *Native Vill. Of Kivalina v. ExxonMobil Corp.*, 696 F.3d 849, 867 (9th Cir.
 7 2012). HUD is not in the business of issuing reverse mortgage contracts. Instead, such
 8 contracts are extended to applicants by third-party lenders and HUD provides optional
 9 insurance to lenders of qualifying reverse mortgages. U.S.C. § 1715z-20(c). This is fatal
 10 to Plaintiff’s complaint because even if she could establish an injury in fact, it would be
 11 traceable to the lender, not HUD. Accordingly, Plaintiff lacks constitutional standing to
 12 bring this action.

13 III. CONCLUSION

14 This is Plaintiff’s fourth bite at the apple. There will not be a fifth. Plaintiff was
 15 informed on three prior occasions that she lacks standing, yet she continues to file
 16 complaints without remedying this underlying defect. And while a *pro se* litigant
 17 ordinarily must be given leave to amend his or her complaint, it is abundantly clear to the
 18 Court that further amendment in this case would be futile. *See* 28 U.S.C. §
 19 1915(e)(2)(B)(i); *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (dismissal
 20 without leave to amend is proper where “it is absolutely clear that no amendment can
 21 cure the defect”). Therefore, Plaintiff’s complaint is **DISMISSED** with prejudice under
 22 28 U.S.C. § 1915(e)(2)(B)(i). *See, e.g., Neitzke v. Williams*, 490 U.S. 319, 325 (1989).
 23 All remaining motions are **TERMINATED**.

24 Finally, as noted above, Plaintiff has a history of filing repetitive and frivolous
 25 lawsuits in this Court. *See Isaacson v. Sec’y of Hous. & Urban Dev.*, No. 16-cv-1254-
 26 JLR (dismissed without leave to amend); *Isaacson v. Sec’y of Hous. & Urban Dev.*, No.

1 17-cv-1449-RSL (dismissed without leave to amend); *Isaacson v. Carson, et. al.*, No. 19-
2 cv-2059-RSL (dismissed as frivolous, without leave to amend). Federal district courts
3 have the inherent power to enter pre-filing orders against vexatious litigants. *Molski v.*
4 *Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007); 28 U.S.C. § 1651(a).
5 While rare, pre-filing orders may be imposed to “regulate the activities of abusive
6 litigants by imposing carefully tailored restrictions under the appropriate circumstances.”
7 *De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990). Although such an extreme
8 remedy is not appropriate at this point, the Court will strongly consider a pre-filing order
9 if Plaintiff continues to file frivolous actions.

10 DATED this 23rd day of April, 2020.

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14 The Honorable Richard A. Jones
15 United States District Judge
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